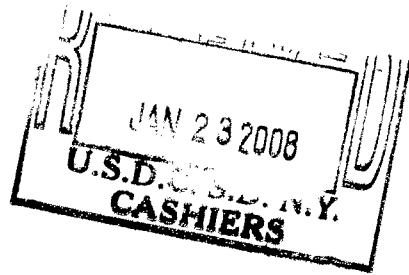


John J. Lee (JL-3577)
Carmine J. Castellano (CC-8484)
BAINTON McCARTHY LLC
Attorneys for Plaintiff
Gilead Sciences, Inc.
26 Broadway, Suite 2400
New York, New York 10004
Tel: (212) 480-3500
Fax: (212) 480-9557



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
GILEAD SCIENCES, INC.,

Plaintiff,

- against -

ABRAHAM T. MORRISON,

Defendant.

-----X
08 CV 0566
Index No.

COMPLAINT

Plaintiff Gilead Sciences, Inc., by its attorneys Bainton McCarthy LLC, for its complaint against Defendant Abraham T. Morrison, states and alleges as follows:

The Parties

1. Gilead Sciences, Inc., is a Delaware corporation with its principal place of business at 333 Lakeside Drive, Foster City, California 94404.

2. Abraham T. Morrison is an individual who, upon information and belief, resides at 484 West 43rd Street, New York, New York 10036.

Jurisdiction and Venue

3. This is a civil action against an individual to recover the amount of \$307,149.06 that was mistakenly paid to Mr. Morrison and that he has wrongfully refused to return.

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C § 1332.

5. Upon information and belief, this Court has personal jurisdiction over Mr. Morrison because he resides within the State of New York.

6. Venue in this District is founded on 28 U.S.C. § 1391(a).

Factual Background

7. On December 6, 2005, Gilead mistakenly issued check number 137614 (the “Check”) in the amount of \$307,149.06 to Mr. Morrison (the “Funds”).

8. On January 4, 2006, Mr. Morrison cashed the Check even though he knew or should have known that Gilead sent the Check to him by mistake and that he was not entitled to the Funds. Attached hereto as Exhibit “1” is a copy of the Check, which bears Mr. Morrison’s endorsement.

9. Gilead issued the Check to Mr. Morrison as a result of a clerical error.

10. Gilead intended to issue the Check to pay an outstanding amount owed to another entity.

11. After an internal audit, Gilead discovered that the Check was mistakenly issued to Mr. Morrison.

12. By letter dated October 11, 2007, Gilead demanded that Mr. Morrison return the Funds. Attached hereto as Exhibit “2” is a copy of Gilead’s letter to Mr. Morrison, dated October 11, 2007.

13. On October 12, 2007, Andy Rittenberg of Gilead spoke with Mr. Morrison and again demanded that Mr. Morrison return the Funds. Mr. Morrison acknowledged that he received the Funds, and that the payment was a mistake.

14. To date, Mr. Morrison has not returned the Funds to Gilead despite Gilead's demands and his acknowledgement of his obligation to do so.

**FIRST CLAIM FOR RELIEF
(Conversion)**

15. Gilead repeats and realleges each and every allegation contained in paragraphs 1 through 13 above as if fully set forth herein.

16. Gilead is the rightful owner of the Check and the Funds.

17. Although Gilead mistakenly issued the Check to Mr. Morrison, Mr. Morrison was not authorized by Gilead to exercise control over the Check and the Funds.

18. Mr. Morrison's unauthorized exercise of control over the Check and the Funds interferes with Gilead's rights as the rightful owner.

19. Despite Gilead's demands for return of the Funds, Mr. Morrison has refused to do so.

20. By reason of the foregoing, Mr. Morrison is obligated to return the Funds and his refusal to do so constitutes conversion in violation of the common law of the State of New York.

**SECOND CLAIM FOR RELIEF
(Unjust Enrichment)**

21. Gilead repeats and realleges each and every allegation contained in paragraphs 1 through 13 and 15 through 19 above as if fully set forth herein.

22. Gilead has conferred benefit upon Mr. Morrison by mistakenly issuing the Check to him.

23. To date, Gilead has received no benefit from Mr. Morrison for issuing the Check to him.

24. By reason of the foregoing, Mr. Morrison has been unjustly enriched in the amount of \$307,149.06 in violation of the common law of the State of New York.

WHEREFORE Plaintiff Gilead Sciences, Inc., demands that this Court enter judgment in its favor and against Defendant Abraham T. Morrison for the sum of \$307,149.06, plus interest.

Dated: New York, New York
January 22, 2008

BAINTON McCARTHY LLC

By: 

John J. Lee (JL-3577)
Carmine J. Castellano (CC-8484)

Attorneys for Plaintiff
Gilead Sciences, Inc.
26 Broadway, Suite 2400
New York, NY 10004-1840
Tel: (212) 480-3500
Fax: (212) 480-9557